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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ARLIN TRAVIS,

12 Plaintiff,

13 v.

14 ENGELHART CTP (US), LLC, a
15 Delaware limited liability company; BTG
16 PACTUAL COMMODITIES TRADING
(US), LLC,

17 Defendants.
18

Case No.: 16CV1728-W(JMA)

**ORDER GRANTING JOINT
MOTION FOR CONTINUANCE OF
DATES IN SCHEDULING ORDER
REGULATING DISCOVERY
AND OTHER PRE-TRIAL
PROCEEDINGS [DOC. NO. 45]**

19 The Joint Motion for Continuance of Dates in the Scheduling Order Regulating
20 Discovery and Other Pre-Trial Proceedings (“Joint Motion”), and the Declaration of
21 Rochelle J. Bioteau in Support of the Joint Motion, was filed by the parties on November
22 8, 2017 pursuant to Federal Rule of Civil Procedure 16(b)(4), Local Civil Rule 16.1, and
23 this Court’s Chamber Rules, requesting a continuance of all dates set out in this Court’s
24 Scheduling Order dated June 6, 2017 (Doc. 32). After reviewing the Joint Motion and
25 Declaration in support for the parties and being advised of the status of the case, and
26 good cause appearing, **IT IS HEREBY ORDERED:**

27 1. All fact discovery shall be completed by all parties by **June 1, 2018**..
28 “Completed” means that all discovery under Rules 30-36 of the Federal Rules of Civil

1 Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period
2 of time in advance of the cut-off date, **so that it may be completed** by the cut-off date,
3 taking into account the times for service, notice and response as set forth in the Federal
4 Rules of Civil Procedure. **Counsel shall promptly and in good faith meet and confer**
5 **with regard to all discovery disputes in compliance with Local Rule 26.1(a).** The
6 Court expects counsel to make every effort to resolve all disputes without court
7 intervention through the meet and confer process. If the parties reach an impasse on any
8 discovery issue, counsel shall file an appropriate motion within the time limit and
9 procedures outlined in the undersigned magistrate judge's chambers rules. **A failure to**
10 **comply in this regard will result in a waiver of a party's discovery issue. Absent an**
11 **order of the court, no stipulation continuing or altering this requirement will be**
12 **recognized by the court.**

13 2. The parties shall designate their respective experts in writing by **May 4, 2018**.
14 Pursuant to Fed. R. Civ. P. 26(a)(2)(A), the parties must identify any person who may be
15 used at trial to present evidence pursuant to Rules 702, 703 or 705 of the Fed. R. Evid.
16 This requirement is not limited to retained experts. The date for exchange of rebuttal
17 experts shall be by **May 18, 2018**. The written designations shall include the name,
18 address and telephone number of the expert and a reasonable summary of the testimony
19 the expert is expected to provide. The list shall also include the normal rates the expert
20 charges for deposition and trial testimony.

21 3. No later than **July 6, 2018**, each party shall comply with the disclosure
22 provisions in Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure. This
23 disclosure requirement applies to all persons retained or specially employed to provide
24 expert testimony, or whose duties as an employee of the party regularly involve the
25 giving of expert testimony. **Except as provided in the paragraph below, any party**
26 **that fails to make these disclosures shall not, absent substantial justification, be**
27 **permitted to use evidence or testimony not disclosed at any hearing or at the time of**
28

1 **trial. In addition, the Court may impose sanctions as permitted by Fed. R. Civ. P.**
2 **37(c).**

3 4. Any party shall supplement its disclosure regarding contradictory or rebuttal
4 evidence under Federal Rules of Civil Procedure 26(a)(2)(D) and 26(e) by **August 3,**
5 **2018.**

6 5. All expert discovery shall be completed by all parties by **September 7, 2018.**
7 The parties shall comply with the same procedures set forth in the paragraph governing
8 fact discovery.

9 6. Failure to comply with this section or any other discovery order of the court may
10 result in the sanctions provided for in Fed. R. Civ. P. 37, including a prohibition on the
11 introduction of experts or other designated matters in evidence.

12 7. All other pretrial motions must be filed by **October 5, 2018.** Counsel for the
13 moving party must obtain a motion hearing date from the law clerk of the judge who will
14 hear the motion. The period of time between the date you request a motion date and the
15 hearing date may vary from one district judge to another. Please plan accordingly. Failure
16 to make a timely request for a motion date may result in the motion not being heard.
17 Motions in limine are to be filed as directed in the Local Rules, or as otherwise set by the
18 district judge.

19 8. The Mandatory Settlement Conference pm April 6, 2018 at 10:00 a.m. is vacated
20 and reset for **December 14, 2018** at **10:00 a.m.** in the chambers of **Magistrate Judge**
21 **Jan M. Adler.** Counsel or any party representing himself or herself shall lodge
22 confidential settlement briefs directly to chambers by **December 7, 2018.** All parties are
23 ordered to read and to fully comply with the Chamber Rules of the assigned magistrate
24 judge.

25 9. Pursuant to Civil Local Rule 7.1(f)(3)(c), if an opposing party fails to file
26 opposition papers in the time and manner required by Civil Local Rule 7.1(e)(2), that
27 failure may constitute a consent to the granting of a motion or other request for ruling by
28 the court. Accordingly, all parties are ordered to abide by the terms of Local Rule

1 7.1(e)(2) or otherwise face the prospect of any pretrial motion being granted as an
2 unopposed motion pursuant to Civil Local Rule 7.1(f)(3)(c). Should either party choose
3 to file or oppose a motion for summary judgment or partial summary judgment, no
4 Separate Statement of Disputed or Undisputed Facts is required.

5 10. Despite the requirements of Civil Local Rule 16.1(f)(2), neither party is
6 required to file a Memorandum of Contentions of Fact and Law at any time. The parties
7 shall instead focus their efforts on drafting and submitting a proposed pretrial order by
8 the time and date specified by Civil Local Rule 16.1(f)(6)(b). The proposed pretrial order
9 shall comply with Civil Local Rule 16.1(f)(6) and the Standing Order in Civil Cases
10 issued by the assigned district judge.

11 11. Counsel shall comply with the pre-trial disclosure requirements of Fed. R. Civ.
12 P. 26(a)(3) by **February 4, 2019**. Failure to comply with these disclosure requirements
13 could result in evidence preclusion or other sanctions under Fed. R. Civ. P. 37.

14 12. Counsel shall meet and take the action required by Local Rule 16.1(f)(4) by
15 **February 11, 2019**. At this meeting, counsel shall discuss and attempt to enter into
16 stipulations and agreements resulting in simplification of the triable issues. Counsel shall
17 exchange copies and/or display all exhibits other than those to be used for impeachment.
18 The exhibits shall be prepared in accordance with Local Rule 16.1(f)(4)(c). Counsel shall
19 note any objections they have to any other parties' Pretrial Disclosures under Fed. R. Civ.
20 P. 26(a)(3). Counsel shall cooperate in the preparation of the proposed pretrial conference
21 order.

22 13. Counsel for plaintiff will be responsible for preparing the pretrial order and
23 arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By **February 19,**
24 **2019**, plaintiff's counsel must provide opposing counsel with the proposed pretrial order
25 for review and approval. Opposing counsel must communicate promptly with plaintiff's
26 attorney concerning any objections to form or content of the pretrial order, and both
27 parties shall attempt promptly to resolve their differences, if any, concerning the order.
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1 14. The Proposed Final Pretrial Conference Order, including objections to any
2 other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures shall be prepared, served and
3 lodged with the assigned district judge by **February 25, 2019**, and shall be in the form
4 prescribed in and comply with Local Rule 16.1(f)(6).

5 15. In addition to submitting the proposed final pretrial conference order, the
6 parties are further ordered to separately submit informal letter briefs, not exceeding two
7 single spaced pages, served on opposing counsel and received in the chambers of Judge
8 Thomas J. Whelan, United States District Judge (and not filed with the Clerk's Office) by
9 **March 4, 2019**.

10 The letter brief should be a relatively informal and straightforward document. The
11 letter brief should outline a short, concise and objective factual summary of the party's
12 case in chief, the number of hours/days each party intends to expend at trial, the
13 approximate number of witnesses, whether certain witnesses will be coming in from out
14 of town, the number of testifying expert witnesses, whether any unique demonstrative
15 exhibits may be presented, the number of proposed motions in limine that may be filed,
16 precisely when the parties would be prepared to submit their in limine papers (and
17 whether the parties have met and conferred with respect to in limine issues), the issue of
18 proposed jury instructions and when the parties intend to submit them before trial, and
19 voir dire issues, either party's preference as to what date(s) the trial should begin and any
20 other pertinent information that either party may deem useful to assist the Court in the
21 execution of the pretrial conference and in setting the matter for trial.

22 16. The final Pretrial Conference scheduled on the calendar of the **Honorable**
23 **Thomas J. Whelan** on August 13, 2018 at 10:30 a.m. is vacated and reset for **March 11,**
24 **2019**, at **10:30 a.m.**.

25 17. The parties must review the chambers' rules for the assigned district judge and
26 magistrate judge.

27 18. A post trial settlement conference before a magistrate judge may be held within
28 30 days of verdict in the case.


1 19. The dates and times set forth herein will not be modified except for good cause
2 shown.

3 20. Briefs or memoranda in support of or in opposition to any pending motion shall
4 not exceed twenty-five (25) pages in length without leave of a district court judge. No
5 reply memorandum shall exceed ten (10) pages without leave of a district court judge.
6 Briefs and memoranda exceeding ten (10) pages in length shall have a table of contents
7 and a table of authorities cited.

8 21. Plaintiff's counsel shall serve a copy of this order on all parties that enter this
9 case hereafter.

10 **IT IS SO ORDERED.**

11 Dated: December 19, 2017



Honorable Jan M. Adler
United States Magistrate Judge